

EVENT VIOLATION  
INSPECTOR'S STATEMENT  
MINERALS REGULATORY PROGRAM

Company/Mine: Mark Miller/Expectations  
Permit #: M0350024

CO # MC2006-03-13-01  
Violation # 1 of 1

SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- |                                     |    |  |
|-------------------------------------|----|--|
| <input checked="" type="checkbox"/> | a. | Activity outside the approved permit area.                     |
| <input checked="" type="checkbox"/> | b. | Injury to the public (public safety).                          |
| <input type="checkbox"/>            | c. | Damage to property.  |
| <input checked="" type="checkbox"/> | d. | Conducting activities without appropriate approvals.           |
| <input checked="" type="checkbox"/> | e. | Environmental harm.  |
| <input type="checkbox"/>            | f. | Water pollution.   |
| <input type="checkbox"/>            | g. | Loss of reclamation/revegetation potential.                    |
| <input type="checkbox"/>            | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/>            | i. | No event occurred as a result of the violation.                |
| <input type="checkbox"/>            | j. | Other.   |

Explanation: The operator has been mining outside the approved permit area. Injury to the public was not likely, but there was environmental damage in the form of land disturbance.

2. Has the event or damage occurred? Yes  
If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: The disturbance occurred, but it is unlikely there would be any injury to the public.

3. Did any damage occur as a result of the violation? Yes

4. If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: I did not measure the size of the new disturbances, but they are probably less than one-quarter acre. If the violation had not been discovered, the operator would have continued to remove rocks from the newly-disturbed area and would probably have expanded the disturbance.

**B. DEGREE OF FAULT** (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: \_\_\_\_\_

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: Since the operator has received two previous cessation orders for mining in unpermitted areas, he should have been aware of the requirements to permit an area before mining. I believe, however, that the operator did not understand that he could amend the notice of intention and be allowed to operate in additional areas.

- ☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: \_\_\_\_\_

- ☐ Was the operator in violation of a specific permit condition?

Explanation: \_\_\_\_\_

- ☒ Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: In March 2005, the Division issued a cessation order for mining without first filing a notice of intention and a reclamation surety. In May 2006, the operator was cited for mining outside the permitted disturbed area.

Was any economic benefit gained by the operator for failure to comply? Yes  
If yes explain.

Explanation: The operator was able to extract rock and use it in his landscaping business, but since the area was small, I doubt much rock was actually removed.

**GOOD FAITH**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: The cessation order has yet to be abated.


2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: \_\_\_\_\_

3. Was the submission of plans prior to physical activity required by this NOV / CO? \_\_\_\_\_ If yes, explain.

Explanation: \_\_\_\_\_

Paul B. Baker  
Authorized Representative

  
Signature

November 27, 2006  
Date